

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

MELINDA K. POIGNEE,

Debtor.

Case Number: **20-42938-399**

Chapter 13

**INTEGRITY TITLE COMPANY, LLC,
d/b/a All County Title Company,**

Plaintiff,

Adversary Number: **20-04067-399**

v.

MELINDA K. POIGNEE,

Defendant.

In re:

MICHAEL J. POIGNEE,

Debtor.

Case Number: **20-43083-399**

Chapter 13

**INTEGRITY TITLE COMPANY, LLC,
d/b/a All County Title Company,**

Plaintiff,

Adversary Number: **20-04069-399**

v.

MICHAEL J. POIGNEE,

Defendant.

COUNTERCLAIM

COMES NOW Defendant, by and through her undersigned counsel, and for the Counterclaim against Integrity Title Company, LLC d/b/a All County Title Company (the “Complaint”), states to the Court as follows:

1. On February 6, 2021, an Order was entered by the Court granting the Motion to Consolidate Adversary Cases 20-4067 and 20-4069 for Trial Purposes Only into Adversary Case 20-4067 (the “Adversary”).

2. On September 28, 2020, Integrity Title Company, LLC d/b/a All County Title Company (“Plaintiff”) filed the Adversary against Melinda K. Poignee and Michael J. Poignee (the “Defendants”).

3. On November 2, 2020, Answers were filed by Defendants.

4. On January 27, 2021, depositions were taken of the Defendants by Plaintiff.

5. Defendants requested leave pursuant to Fed. R. Civ. P. 15(d) and Rule 7015 of Fed. R. Bank. P. to amend and supplement the pleadings.

6. Defendants bring this Counterclaim pursuant to Fed. R. Civ. P. 13 and Rule 7013 of Fed. R. Bank. P.

7. Plaintiff breached its duty in that it was negligent in its title search.

8. Plaintiff was negligent in that it failed to discover instruments of record, specifically the Deed of Trust attached as Exhibit 7 to Plaintiff’s Complaint.

9. Searching for a deed of trust is consistent with title search guidelines.

10. Plaintiff breached its duty because it failed to follow industry standards.

11. If Plaintiff had not been negligent in its duties, the Adversary would not have been filed.

12. Plaintiff’s position is not substantially justified.

13. Defendants have incurred damages in defending the Adversary.

14. Pursuant to 11 U.S.C. §523(d):

“If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney’s fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.”

15. Defendants request judgment against Plaintiff for their reasonable attorney’s fees. Invoice to be provided at determination.

WHEREFORE, Melinda K. Poignee and Michael J. Poignee pray this Honorable Court make and enter judgment in favor of Melinda K. Poignee and Michael J. Poignee and against Integrity Title Company, LLC d/b/a All County Title Company in that the debt is dischargeable; and for such other and further relief as the Court deems just and proper.

Respectfully submitted,
ADAMS LAW GROUP

/s/ Bryan T. Voss

JACK J. ADAMS #37791MO #37791

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on February 22, 2021 with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

I certify that a true and correct copy of the foregoing document was filed electronically with the United States Bankruptcy Court, and has been served by Regular United States Mail Service, first class, postage fully pre-paid, addressed to those parties listed below on February 22, 2021:

Melinda K. Poignee
Michael J. Poignee
23 Ellis Ave
Troy, MO 63379

Scott Greenberg
Zachary Merkle
Sandberg Phoenix & von Gontard
600 Washington Avenue
15th Floor
St. Louis, MO 63101-1313

/s/ Ryan J. Brown
Ryan J. Brown